

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-24 were pending prior to the Office Action. Claims 25-35 have been added through this Reply. Therefore, claims 1-35 are pending. Claims 1, 9, 17, 28, and 35 are independent.

OBJECTION TO THE SPECIFICATION

The specification is objected to for minor informalities. See *Office Action, page 2, items 1*. More specifically, the Abstract was objected to. A replacement Abstract is attached herewith that addresses the objection. Applicant respectfully request that the objection to the specification be withdrawn.

OBJECTION TO THE CLAIMS

The claims are objected to for minor informalities. See *Office Action, page 2, items 2*. Claims 6 and 22 have been amended to address the objection. Applicant respectfully request that the objection to the specification be withdrawn.

§ 102 REJECTION - ARIAS

Claims 1-2, 9-10, and 17-18 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Arias (USP 5,724,514). See *Office Action*, page 2-3, items 3-6. Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See M.P.E.P. 2131; M.P.E.P. 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Arias fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, in part, "determining the number of the image data sets to be sent to the client ... based on the transfer rate and a permitted transfer time determined in advance." *Emphasis added.* Independent claims 9 and 17 recite similar features. Contrary to the Examiner's assertion, Arias cannot be relied upon to teach or suggest at least this recited feature.

More specifically, Arias is directed to controlling a transfer of data between a source and destination computers over a communication link. See *Arias*, column 1, lines 7-10. Arias discloses the concept of primary and secondary data objects

utilized to represent a set of data. A primary data object identifies one or more secondary data objects that are used to add particular pieces to the final rendered information. See *column 1, lines 16-24*. An example of a primary object is an HTML document which contains text and tags. The objects referred to within the HTML document (image, audio, video, etc) are examples of secondary data objects. See *Arias, column 1, lines 25-38*. Rendering refers to the process of decoding and displaying information in the primary and secondary data objects.

Arias recognizes that the particular method of transferring data from the server to the client depends on the bandwidth of the network. See *Arias, column 3, lines 1-6*. More specifically, Arias discloses that if the bandwidth is considered to be low (slow connection), then it is preferable to transfer objects sequentially. On the other hand, if the bandwidth is high (fast connection), then it is preferable to transfer objects concurrently. See *Arias, column 3, lines 42-44*.

Arias then indicates that the bandwidth is related to the data transfer rate. See *Arias, column 3, lines 48-49*. High transfer rate correlates to high bandwidth (fast connection) and low transfer rate correlates to low bandwidth (slow connection).

Arias' invention may be summarized as follows. First, the effective transfer rate of the primary data object from the server to the client is determined. The effective transfer rate is compared against a threshold rate. If the effective transfer rate is below the threshold rate, it is determined to be a slow connection and thus any secondary objects are obtained sequentially. On the other hand, if the effective transfer rate is above the threshold rate, it is determined to be a fast connection and thus the secondary objects are obtained concurrently. See *Arias*, column 5, lines 8-17.

It is important to recognize that there is simply no concept of a "permitted transfer time" disclosed in Arias. At best, Arias may be interpreted to determine a type of transfer (sequential or concurrent) based on two factors, the effective transfer rate and the threshold transfer rate.

However, independent claims require determining a number of image data sets based the transfer rate and a permitted transfer time. It appears that the Examiner is under the impression that the threshold **transfer rate** is somehow equivalent to the permitted **transfer time** as claimed. While rate and time are related - one is the inverse of the other, the two concepts are clearly different.

For at least the reasons stated above, independent claims 1, 9, and 17 are distinguishable over Aria. Claims 2, 10, and 18 depend from independent claims 1, 9, and 17, respectively. Therefore, dependent claims 2, 10, and 18 are also distinguishable over Aria for at least the reasons stated with respect to the independent claims as well as on their own merits.

Applicant respectfully requests that the rejection of claims 1-2, 9-10, and 17-18 based on Arias be withdrawn.

§ 103 REJECTION - PRIMARY, SECONDARY, TERTIARY

Claims 3-8, 11-16, and 19-24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Arias in view of Mogul et al. (USP 6,243,761 B1, hereinafter "Mogul"). Applicant respectfully traverses.

In this instance, it has been demonstrated above that independent claims 1, 9, and 17 are distinguishable over Arias. Mogul has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Arias. Therefore, independent claims 1, 9, and 17 are distinguishable over the combination of Arias and Mogul.

Claims 3-8, 11-16, and 19-24 depend from independent claims 1, 9, and 17, directly or indirectly. Therefore, these

dependent claims are also distinguishable over the combination of Arias and Mogul for at least the reasons stated with respect to the independent claims.

It is noted that at least some of the dependent claims are also distinguishable on their own merits. For example, in the Office Action, the Examiner asserts that Aria teaches the feature of transferring to the client a message notifying that the number of the image data sets to be transferred is 0 as recited in claims 6, 14, and 22.

Contrary to the Examiner's assertion, Arias cannot be relied upon to teach or suggest at least this feature. Even under the unreasonably broad interpretation of Arias given by the Examiner, Arias transfers data **one** at a time or **more than one** at a time. **Zero simply does not fit.**

Also, contrary to the Examiner's assertion, there is no disclosure in Arias of transferring any type of messages at all from the server to the client regarding number of data sets. At best, Aria may be interpreted to disclose transferring the data sets themselves only. Therefore, Arias cannot be relied upon to teach or suggest the feature of transferring information representing the transfer rate to the client as recited in claims 7, 14 and 23.

For at least the reasons stated above, claims 3-8, 11-16, and 19-24 are distinguishable over the combination of Aria and Mogul. Applicant respectfully requests that the rejection of claims 3-8, 11-16, and 19-24 based on Arias and Mogul be withdrawn.

NEW CLAIMS

Claims 25-35 have been added through this reply. All new claims are believed to be distinguishable over the cited references, individually or in any combination. For example, claims 25, 26, and 27 recite, in part, "wherein an amount of time necessary for transferring the number of image data sets is approximately the permitted transfer time."

As noted above, Arias does not even contemplate recognizing an amount of time necessary to transfer one or more files - it simply determines whether the files should be transferred sequentially or concurrently. The concept of transfer time including permitted transfer time is simply missing in Arias.

Thus, Arias cannot teach or suggest this feature. Also, the other cited references have not been, and indeed could not be, relied upon to teach or suggest this feature.

Applicant respectfully requests that the new claims 25-35 be allowed.

**CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

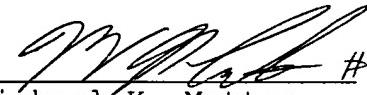
**Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a two (2) months extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.**

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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